



IN THE
United States Circuit Court of Appeals
FOR THE
NINTH CIRCUIT.

**Alfred Young Chick and Wil-
liam Flanders Lewin, co-part-
ners under the firm name and
style of A. Y. Chick & Com-
pany,**

Appellants,

vs.

**The Mercantile Trust Company
and the San Joaquin Electric
Company,**

Appellees.

SUPPLEMENTAL MOTION TO DISMISS APPEAL.

Now comes The Mercantile Trust Company, a corporation, and moves the court to dismiss the appeal of Alfred Young Chick and William Flanders Lewin, doing business under the firm name and style of A. Y. Chick & Company, because, since the submission of this case in this court, and since the former motion to dismiss the appeal, said appellants have disposed of all the bonds formerly owned by them, and the purchaser thereof desires that said appeal be dismissed and the intervention in the cause be discontinued.

This motion will be made upon the transcript filed in this court, and upon the affidavit of C. F. Street, the sworn statement of C. F. Street, and the certificate of Victor Cumberson, and the sworn statement of L. Carroll Root, secretary of the New York Security & Trust Company, to be filed herein with this motion, copies of which are as follows:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

Alfred Young Chick and William Flan- ders Lewin, co-partners under the firm name and style of A. Y. Chick & Com- pany, Appellants,	}	No. 782
vs.		
The Mercantile Trust Company and the San Joaquin Electric Company, Appel- lees.	}	

STATE OF CALIFORNIA, }
COUNTY OF FRESNO. } SS.

C. F. Street, being first duly sworn, deposes and says:

That he is attorney in fact of the American Securities Agency, Limited, a corporation organized and existing under the laws of Great Britain, and has charge of the business of said corporation in the United States. That the American Securities Agency, Limited, has, ever since, and for some time before, the bringing of the suit of the Mercantile Trust Company against the San Joaquin Electric Company in the Circuit Court of the United States of the District of California, for the foreclosure of the first mortgage of said San Joaquin Electric Company, been the owner and holder of more than a majority of the first mortgage bonds of said San Joaquin Electric Company. That this affiant is familiar with all said litigation and knows of the proceed-

ings in intervention in said suit instituted by the firm of A. Y. Chick & Company, and is familiar with the bonds formerly owned by said A. Y. Chick & Company, and upon which their application to intervene was based.

This affiant further says, sometime during the month of February, 1902, the American Securities Agency, Limited, purchased, and ever since that time has been the owner and holder of all the bonds formerly owned by A. Y. Chick & Company upon which their application for intervention was based, and that said bonds are numbered as follows, to wit: Nos. 49, 50, 77 to 86, 93, 94, 101 to 107, 233, 241 to 243, 451, 452, 557, 558, 561 to 572, 935 to 950 and 990 to 1010.

That all these bonds were by said American Securities Agency, Limited, on or about the first of February, 1902, sent to this affiant, and that the bonds are now in possession of the New York Security & Trust Company of New York. That on the 8th of April, 1902, this affiant addressed a letter to Messrs. Alexander & Green, solicitors for the Mercantile Trust Company, stating that the American Securities Agency, Limited, had purchased said bonds, which said letter is hereto attached, marked exhibit "A," and made a part of this affidavit.

That on the 13th day of March, 1902, one Victor Cumberston, a notary public in and for the County of New York, State of New York, called at the office of the New York Security & Trust Company and examined said bonds and made a written certificate that said bonds were there in the possession of said New York Security & Trust Company, which said certificate is hereto attached, marked exhibit "B" and made a part of this affidavit.

This affiant further says that the Secretary of the New York Security & Trust Company on the 8th day of April, 1902, made a sworn statement to this affiant

that that company held the said \$39,000. of the San Joaquin Electric Company First Mortgage 6% bonds, numbering the bonds as above numbered, and that those bonds were subject to the order of this affiant and would be delivered to him upon payment of the money he had borrowed upon them, said statement of said secretary is hereto attached, marked exhibit "C," and made a part of this affidavit.

This affiant further says that A. Y. Chick & Company are no longer owners of any bonds of said San Joaquin Electric Company and that the American Securities Company, Limited, as the owner of the bonds formerly held by them, desires the appeal herein to be dismissed and the intervention discontinued.

C. F. STREET.

Subscribed and sworn to before me this 18th day of April, 1902.

[SEAL]

A. HARVEY,

Notary Public in and for the County of Fresno, State of California.

EXHIBIT "A."

STREET, WYKES & Co.,

44 Wall Street, New York.

Cable address: "Warco," New York.

April, 8th, 1902.

Messrs. Alexander & Green, 120 Broadway, City.

Gentlemen: I beg to advise you that we have purchased \$39,000 par value of the first mortgage 6% bonds of the San Joaquin Electric Company, with July, 1899, and all subsequent coupons attached. These bonds are numbered as follows:

Nos. 49, 50, 77 to 86, 93, 94, 101 to 107, 233, 241 to

243, 451, 452, 557, 558, 561 to 572, 935 to 950 and 990 to 1010.

Yours truly,
AMERICAN SECURITIES AGENCY, LYD.,
By C. F. STREET, *Attorney.*

Subscribed and sworn to before me this 8th day of April, 1902.

[SEAL]

VICTOR CUMBERSON,
Notary Public, N. Y. County.

EXHIBIT "B."

STATE OF NEW YORK, }
CITY & COUNTY OF NEW YORK. } ss.

I hereby certify that on the 13th of March, 1902, I called at the office of the New York Security & Trust Company, and there examined 78 first mortgage 6% bonds of the San Joaquin Electric Company. All of said bonds have the July, 1899, and all subsequent coupons attached, are of the denomination of \$500 each, amounting in the aggregate to the par value of \$39,000.

Said bonds are numbered as follows :

Nos. 49, 50, 77 to 86, 93, 94, 101 to 107, 233, 241 to 243, 451, 452, 557, 558, 561 to 572, 935 to 950 and 990 to 1010.

In witness whereof I have hereunto set my hands and affixed my notarial seal this 8th day of April, 1902.

[SEAL]

VICTOR CUMBERSON,
Notary Public, N. Y. County.

[No. 149.]

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

I, Thomas L. Hamilton, clerk of the county of New York, and also clerk of the Supreme Court for the said

county, the same being a court of record, do hereby certify that Victor Cumberson, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said county, duly appointed and sworn and authorized to administer oaths to be used in any court in said state, and for general purposes; that I am well acquainted with the handwriting of said notary, and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court and county the 8 day of April, 1902.

[SEAL]

THOS. L. HAMILTON, *Clerk.*

EXHIBIT "C."

NEW YORK SECURITY & TRUST COMPANY,
44 & 46 Wall Street.

NEW YORK, Apr. 8, 1902.

Charles S. Fairchild, President.
Abram M. Hyatt, Vice President.
Osborn W. Bright, 2nd Vice President.
L. Carroll Root, Secretary.
Zelah Van Loan, Assistant Secretary.
Charles R. Braine, Jr., 2nd Asst. Secy.
James E. Keeler, Trust Officer.
Bond Department, H. W. Whipple, Manager.

C. F. Street, Esq., attorney, American Securities Agency, Ltd., 44 Wall St., New York City.

Dear Sir: We beg to advise you that we hold \$39,000. of the San Joaquin Electric Company first mortgage 6% bonds, with July, 1899, and all subsequent coupons attached, which bonds are numbered as follows:

Nos. 49, 50, 77-86 inc., 93, 94, 101-107 inc., 233, 241-243 inc., 451, 452, 557, 558, 561-572 inc., 935-950 inc., and 990-1010 inc.

These bonds are subject to your order and will be delivered to you upon payment to us of the moneys you have borrowed upon them.

Yours truly,

L. CARROLL ROOT,

Secretary.

Subscribed and sworn to before me this 8th day of April, 1902.

[SEAL]

VICTOR CUMBERSON,

Notary Public, N. Y. County.

[No. 149.]

ALEXANDER & GREEN,

CHAS. MONROE,

Solicitors for The Mercantile Trust Company, Appellee.

*To George E. Church, L. A. Groff, John D. Works,
Bradner W. Lee and Lewis R. Works, Solicitors
for Appellants:*

You and each of you are hereby notified that the foregoing supplemental motion to dismiss appeal will be called up for hearing before the United States Circuit Court of Appeals for the Ninth Circuit, on Tuesday, the 6th day of May, 1902, at the opening of court on that day, or as soon thereafter as counsel can be heard, in the court room of said court, in the city of San Francisco, state of California.

ALEXANDER & GREEN,

CHAS. MONROE,

Solicitors for The Mercantile Trust Company, Appellee.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

A. Y. Chick et al., Appellants,
vs.
The Mercantile Trust Company (a cor-
poration) et al., Appellees. }

**BRIEF ACCOMPANYING SUPPLEMENTAL
MOTION TO DISMISS APPEAL.**

It appears from the affidavits filed herein that since the submission of the case and the original motion to dismiss the appeal herein, the American Securities Agency, Limited, has acquired and now owns the bonds formerly owned by the alleged intervenors, and that that company desires the appeal to be dismissed and the intervention discontinued.

That it may be seen that the bonds acquired by the American Securities Company, Limited, are the same as the ones formerly held by A. Y. Chick & Company the court is referred to the deposition of Alfred Young Chick, on page 189 of the transcript, where he gives the numbers of the bonds held by A. Y. Chick & Company, and they are identical with the numbers of the bonds given in the affidavits submitted with this motion.

ALEXANDER & GREEN,
CHAS. MONROE,

Solicitors for Appellee, The Mercantile Trust Company.